

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART V PROTECTED MARINE FISHERIES RESOURCES

CHAPTER 95

Rules Regulating the Taking and Selling
of Certain Marine Resources

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§13-95-1 Definitions. As used in this chapter, unless otherwise provided:

"Commercial marine licensee" means a person who has been issued a commercial marine license pursuant to section 13-74-20 and section 189-2, HRS.

"Net" means any of various fishing devices of mesh material made into various shapes, such as but not limited to, a bag, sack, pouch, or curtain, used to entangle, surround, or concentrate aquatic life.

"Take" means to fish for, catch, or harvest, or to attempt to fish for, catch, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, or harvest, or to attempt to fish for, catch, capture, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be fished for, caught, or harvested, shall be construed as fishing. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-2 Penalty. A person violating this chapter shall be punished as provided by law. [Eff: DEC 03 1998] (Auth: HRS §§187A-5, 187A-12.5, 187A-13, 188-53, 188-70, 189-4) (Imp: HRS §§187A-5, 187A-12.5, 187A-13, 188-53, 188-70, 189-4)

§13-95-3 Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff: DEC 03 1998] (Auth: HRS §§187A-5, 1-23) (Imp: HRS §§187A-5, 1-23)

§13-95-4 Aholehole. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any aholehole less than five inches in length.

(b) It shall be unlawful for any person to take with spear or possess any speared aholehole less than five inches in length. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-5 Manini. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any manini less than five inches in length.

(b) It shall be unlawful for any person to take with spear or possess any speared manini less than five

inches in length. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-6 Moana. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any moana less than seven inches in length.

(b) It shall be unlawful for any person to take with spear or possess any speared moana less than seven inches in length. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-7 Kumu. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any kumu less than seven inches in length.

(b) It shall be unlawful for any person to take with spear or possess any speared kumu less than seven inches in length. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-8 Mullet. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any mullet less than seven inches in length.

(b) It is unlawful for any person to wilfully fish for, or attempt to take by any means whatsoever, from any of the waters within the jurisdiction of the State, or to sell, offer for sale, or have in possession any mullet during the months of December, January, or February; provided that any owner or operator of a fish pond may lawfully catch the young mullet known as pua during the closed season, for the purpose of stocking the owner's or operator's pond; and provided further that any owner or operator of a fish pond or any commercial marine dealer may lawfully sell pond raised mullet during the closed season after first procuring a license to do so pursuant to sections 13-74-40 or 13-74-43.

(c) It shall be unlawful for any person to take with spear or possess any speared mullet less than seven inches in length. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-9 Awa. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any awa less than nine inches in length.

(b) It shall be unlawful for any person to take with spear or possess any speared awa less than nine inches in length. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-10 Oio. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any oio less than nine inches in length.

(b) It shall be unlawful for any person to take with spear or possess any speared oio less than nine inches in length. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-11 Kala. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any kala less than nine inches in length.

(b) It shall be unlawful for any person to take with spear or possess any speared kala less than nine inches in length. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-12 Opelu kala. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any opelu kala less than nine inches in length.

(b) It shall be unlawful for any person to take with spear or possess any speared opelu kala less than nine inches in length. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-13 Opakapaka. It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any opakapaka less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared opakapaka less than one pound in weight. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-14 Onaga. It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any onaga less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared onaga less than one pound in weight. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-15 Uku. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any uku less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared uku less than one pound in weight. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-16 Uhu. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any uhu less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared uhu less than one pound in weight. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-17 Ahi. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any ahi less than three pounds in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared ahi less than three pounds in weight. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-18 Opelu. It shall be unlawful for any person at any time, to fish for or take, or be engaged in fishing or taking opelu with fish or animal bait within the waters off the coast of South Kona, island of Hawaii, between the Kiilae-Keokea boundary and the Kapua-Kaulanamauna boundary, except with hook and line. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-19 Akule. It shall be unlawful for any person to fish for or take, or attempt to fish for or take any akule with a net with mesh smaller than one and one-half inches; provided that no akule measuring less than eight and one-half inches in total length from the tip of the snout to the tip of the tail shall be taken with a net during the months of July, August, September, and October. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-20 Iao. (a) It shall be unlawful for any person at any time to sell, offer for sale, or trade, any dried or cured iao taken from the waters within the jurisdiction of the State.

(b) It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any iao; provided that the department may issue licenses pursuant to section 13-74-22, to take iao for use as bait only. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-21 Nehu. (a) It shall be unlawful for any person at any time to sell, offer for sale, or trade, any dried or cured nehu taken from the waters within the jurisdiction of the State.

(b) It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any nehu; provided that the department may issue licenses pursuant to section 13-74-22, to take nehu for use as bait only and as maybe otherwise allowed under chapter 13-90. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-50 Kuhonu crab. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any kuhonu crab less than four inches in length or in width across or along its back.

(b) It is unlawful for any person to catch or take from any bays, harbors, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any kuhonu crab while with eggs. Any kuhonu crab with eggs caught must immediately be returned to the waters from which the crab was taken. The possession of any kuhonu crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(c) No person shall pursue, take, or kill any kuhonu crab in the State with a spear.

(d) No person shall offer for sale any speared kuhonu crab. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-51 Kona crab. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any Kona crab less than four inches in length or in width across or along its back.

(b) It is unlawful for any person to take, kill, sell, or offer for sale, or have in possession any Kona crab taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

(c) The possession of any Kona crab by any person during the months of May, June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve Kona crab lawfully caught during the open season by first procuring a

license to do so pursuant to section 13-74-41.

(d) It is unlawful for any person to catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any Kona crab while with eggs. Any Kona crab with eggs caught must immediately be returned to the waters from which the crab was taken. The possession of any Kona crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(e) No person shall pursue, take, or kill any Kona crab in the State with a spear.

(f) No person shall offer for sale any speared Kona crab. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-52 Samoan crab. (a) It is unlawful for any person to catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any samoan crab while with eggs. Any samoan crab with eggs caught must immediately be returned to the waters from which the samoan crab was taken. The possession of any samoan crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(b) No person shall pursue, take, or kill any samoan crab in the State with a spear.

(c) No person shall offer for sale any speared samoan crab. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-53 Spiny lobster. (a) It is unlawful for any person to take, kill, sell, or offer for sale, or have in possession any spiny lobster taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

(b) The possession of any spiny lobster by any person during the months of May, June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve spiny lobster lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

(c) It is unlawful for any person to catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any spiny lobster while with eggs. Any spiny lobster with eggs caught must immediately be returned to the waters from which the spiny lobster was taken. The possession of any spiny lobster, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(d) No person shall pursue, take, or kill any spiny lobster in the State with a spear.

(e) No person shall offer for sale any speared spiny lobster. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-54 Slipper lobster. (a) It is unlawful for any person to take, kill, sell, or offer for sale, or have in possession any slipper lobster taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

(b) The possession of any slipper lobster by any person during the months of May, June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve slipper lobster lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

(c) It is unlawful for any person to catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any slipper lobster while with eggs. Any slipper lobster with eggs caught must immediately be returned to the waters from which the slipper lobster was taken. The possession of any slipper lobster, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(d) No person shall pursue, take, or kill any slipper lobster in the State with a spear.

(e) No person shall offer for sale any speared slipper lobster. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-70 Stony corals. (a) The intentional taking, breaking, or damaging with crowbar, chisel, or any other implement of any live stony coral of the taxonomic order, Madreporaria, including the Fungidae or Pocilloporidae families, is prohibited except with a permit authorized under sections 183-41 or 187A-6, HRS, or by section 13-74-43, or as maybe otherwise authorized by law.

(b) No person shall sell or offer for sale as souvenirs any stony coral of the taxonomic order, Madreporaria, of the species *Montipora verrucosa*, *Fungia scutaria*, *Pocillopora damicornis*, *Pocillopora meandrina*, *Pocillopora eydouxi*, *Porites compressa*, *Porites lobata*, and *Tubastraea coccinea*, provided that stony coral souvenirs shall not include coral rubble pieces or fragments imported for the manufacture and sale of coral jewelry or obtained through dredging operations in Hawaii for agricultural or other industrial uses. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-71 Live rocks. The intentional taking, breaking, or damaging with crowbar, chisel, or any other implement of any rock or coral to which marine life is visibly attached or affixed is prohibited except with a permit authorized under sections 183-41 or 187A-6, HRS, or by section 13-74-43, or as maybe otherwise authorized by law. [Eff: DEC 03 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)